

IC 8-1-2.6

Chapter 2.6. Competition in the Provision of Telephone Services

IC 8-1-2.6-1

Legislative declaration

Sec. 1. The Indiana general assembly hereby declares that:

- (1) the maintenance of universal telephone service is a continuing goal of the commission in the exercise of its jurisdiction;
- (2) competition has become commonplace in the provision of certain telephone services in Indiana and the United States;
- (3) traditional commission regulatory policies and practices and existing statutes are not designed to deal with a competitive environment;
- (4) an environment in which Indiana consumers will have available the widest array of state-of-the-art telephone services at the most economic and reasonable cost possible will necessitate full and fair competition in the delivery of certain telephone services throughout the state; and
- (5) flexibility in the regulation of providers of telephone services is essential to the well-being of the state, its economy, and its citizens and that the public interest requires that the commission be authorized to formulate and adopt rules and policies as will permit the commission, in the exercise of its expertise, to regulate and control the provision of telephone services to the public in an increasingly competitive environment, giving due regard to the interests of consumers and the public and to the continued availability of universal telephone service.

As added by P.L.92-1985, SEC.1. Amended by P.L.23-1988, SEC.32.

IC 8-1-2.6-2

Jurisdiction of commission over telephone companies or services; limitation; orders; hearings; public interest; resumption

Sec. 2. (a) Notwithstanding any other statute, the commission may:

- (1) on its own motion;
- (2) at the request of the utility consumer counselor;
- (3) at the request of one (1) or more telephone companies; or
- (4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;

enter an order, after notice and hearing, that the public interest requires the commission to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over telephone companies or certain telephone services.

(b) In determining whether the public interest will be served, the commission shall consider:

- (1) whether technological change, competitive forces, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the commission unnecessary or

wasteful;

(2) whether the exercise of commission jurisdiction produces tangible benefits to telephone company customers; and

(3) whether the exercise of commission jurisdiction inhibits a regulated entity from competing with unregulated providers of functionally similar telephone services or equipment.

(c) The commission may:

(1) on its own motion;

(2) at the request of the utility consumer counselor;

(3) at the request of one (1) or more telephone companies; or

(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;

enter an order notifying any telephone company or class of telephone companies jurisdiction over which was either limited or not exercised according to this section that the commission will proceed to exercise jurisdiction over the telephone company, class of telephone companies, or class of telephone services provided by telephone companies to the extent the commission considers appropriate unless one (1) or more of those telephone companies formally request a hearing within fifteen (15) days following the date of such order.

As added by P.L.92-1985, SEC.1.

IC 8-1-2.6-3

Regulatory procedures or generic standards; rules; orders

Sec. 3. Notwithstanding any other statute, the commission may:

(1) on its own motion;

(2) at the request of the utility consumer counselor;

(3) at the request of one (1) or more telephone companies; or

(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;

adopt rules or by an order in a specific proceeding provide for the development, investigation, testing, and utilization of regulatory procedures or generic standards with respect to telephone companies or services. The commission shall adopt the rules or enter an order only if it finds, after notice and hearing, that the regulatory procedures or standards are in the public interest and promote one (1) or more of the following:

(1) Telephone company cost minimization to the extent that a telephone company's quality of service and facilities are not diminished.

(2) A more accurate evaluation by the commission of a telephone company's physical or financial conditions or needs, as well as a less costly regulatory procedure for either the telephone company, its consumers, or the commission.

(3) Development of depreciation guidelines and procedures that recognize technological obsolescence.

(4) Increased telephone company management efficiency beneficial to consumers.

(5) Regulation consistent with a competitive environment.

As added by P.L.92-1985, SEC.1.

IC 8-1-2.6-4

Regulatory flexibility committee; legislative standing committees; subject matter jurisdiction; reports

Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telephone industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this subsection shall co-chair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition on universal service and on pricing of all telephone services under the jurisdiction of the commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

- (1) The effects of competition in the telephone industry and impact of competition on available subsidies used to maintain universal service.
- (2) The status of modernization of the public telephone network in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development and educational opportunities of this modernization.
- (4) The current method of regulating telephone companies and the method's effectiveness.
- (5) The economic and social effectiveness of current telephone service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

As added by P.L.92-1985, SEC.1. Amended by P.L.23-1988, SEC.33;

P.L.55-1992, SEC.1; P.L.224-2003, SEC.277; P.L.28-2004, SEC.71.

IC 8-1-2.6-5

Proceedings; basis for filing

Sec. 5. A proceeding before the commission may be filed:

- (1) under section 2 of this chapter;
- (2) under section 3 of this chapter; or
- (3) under both sections 2 and 3 of this chapter concurrently.

As added by P.L.92-1985, SEC.1.

IC 8-1-2.6-6

Rates and charges for nonresidential customers

Sec. 6. The commission shall not establish local exchange rates and charges for nonresidential customers priced below cost that would require subsidizations by residential customers.

As added by P.L.92-1985, SEC.1.

IC 8-1-2.6-7

Rates based on usage; applicability of chapter

Sec. 7. This chapter does not apply to any monthly rate structure for local exchange telephone service based upon usage.

As added by P.L.92-1985, SEC.1.

IC 8-1-2.6-8

Rate reduction programs

Sec. 8. (a) As used in this section, "rate reduction" means a decrease in either recurring or nonrecurring rates or charges.

(b) Notwithstanding any other provision of this chapter or any other statute, a telephone company may, subject to the prior approval of the commission, participate in any rate reduction program for residential customers funded from revenues provided by any governmental entity or other revenues administered by an agency of that entity.

As added by P.L.81-1988, SEC.2.